IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTIION

Writ Petition No. 8478 of 2007

Marathi Patrakar Parishad
and others ..Petitioners

vs.

Balkrishna Vasant Ambekar
and others ..Respondents

Shri C.G.Gavnekar for petitioners.
Shri A.P.Vanarse i/b Smt.Samidha Dongre for respondent no.1.

**CORAM: S.C.DHARMADHIKARI J.**
**27th NOVEMBER, 2007**

**P.C.**

1. My attention is invited to the fact that further elections have been held on 2nd September, 2007 in terms of election programme, copies of which are annexed as Exhibits K, L and L-1.

2. My attention is also invited by Shri Gavnekar to the following observations of the Joint Charity Commissioner.

> "...The applicants have alleged about the flouting of certain Constitutional provisions and thereupon it is prayed that, the election which is to be held on

29.12.2005 for the appointment of new Trustees from 29.12.2005 for the period of two years should be declared as illegal. By this time, such illegally appointed bodys' continuously working and as such only two and half months remained for the efflux of the tenure. As per the old constitution, the period of the Managing Committee was for one year.But it was got converted for two years as per the said election. That itself is illegal. Moreover, when the said tenure is on the verge of expiry, the question of declaring that appointment and election as illegal for the period 29.12.2005 till today becomes only academic."

3. Shri Gavnekar submits that when the Joint Charity Commissioner ordered fresh election he has not adverted to the fact that the elections have already been held pursuant to the programme at Exh.K page 56 of the petition. The submission of the learned Counsel appearing for the respondent no.1 is that the elections have been held by Akhil Bharatiya Marathi Patrakar

Parishad. Be that as it may, the Joint Charity Commissioner was obliged to consider the effect of all these circulars and election held in pursuance thereof before directing holding of fresh election and passing further restraint order.

4. In such circumstances, the impugned order is quashed and set aside and Application no.4 of 2006 is restored to file of the Joint Charity Commissioner, Pune Region, Pune for being heard afresh on merits and in accordance with law and without being influenced by earlier order. The parties are directed to appear before the Joint Charity Commissioner on 11th December, 2007.

5. Petition is disposed of accordingly.

**(S.C.DHARMADHIKARI J.)**